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VALLEY UNIFIED SCHOOL DISTRICT;  
EDWARD WONG, TRICIA OSBORNE, and  
CHAD JOHNSON

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PHILLIP BELL JR.; LORNA BARNES; and  
ANTHONY BARNES.

Plaintiffs,

v.

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT; CALIFORNIA  
INTERSCHOLASTIC  
FEDERATION; NEXT LEVEL SPORTS  
& ACADEMICS; and ISAHIA SANDOVAL;  
EDWARD WONG; TRICIA OSBORNE;  
CHAD JOHNSON; STEVE BRISCOE;  
SAREENA CHOW; AND DOES 1-20 in their  
individual and official capacities.

Defendants.

Case No. 3:24-cv-05545-JCS

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION TO DISMISS PLAINTIFFS'  
SECOND AMENDED COMPLAINT FOR  
IMPROPER VENUE, PURSUANT TO  
RULE 12(B)(3), FEDERAL RULES OF  
CIVIL PROCEDURE**

DATE: January 8, 2026  
TIME: 2:00 P.M.  
COURT.: 6

Assigned to: Hon. Judge Jon S. Tigar

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## I. INTRODUCTION

The Court has now dismissed all parties located in the Northern District of California, leaving only Defendants residing outside of the venue of this Court. As such, a new Motion to Dismiss based upon an improper venue is brought. Plaintiffs PHILLIP BELL JR., LORNA BARNES, and ANTHONY BARNES (hereinafter “Plaintiffs”) filed a Second Amended Complaint (“SAC”) against Defendants SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT (“District”); EDWARD WONG, TRICIA OSBORNE, and CHAD JOHNSON (“District Defendants”), and other co-defendants in this matter alleging state and federal causes of action against the District and District Defendants. (Dkt. 86, Request for Judicial Notice (“RJN”), Exhibit A, Second Amended Complaint (“SAC”)) On July 15, 2025, Defendants Steve Briscoe, Next Level Sports & Academics (“Next Level”), and California Interscholastic Federation (“CIF”) filed their Motions to dismiss Plaintiffs’ Second Amended Complaint (Dkt. 88,89). On July 15, 2025, District and District Defendants filed Motions to dismiss Plaintiffs’ Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. 90)

On October 8, 2025, this Court entered an Order resolving the above-mentioned Motions and dismissed Plaintiffs’ claims against CIF, Next Level, and Briscoe, without leave to amend. (Dkt. 110). The Court also dismissed Plaintiffs’ Monell claim against the District Defendants without leave to amend and limited Plaintiffs’ claims for damages against the District Defendants to seek damages against Defendants Wong, Osborne, or Johnson in their individual capacities. (Dkt. 110). The Court further dismissed Plaintiffs’ civil conspiracy claim without prejudice. (Id.).

Defendant Next Level was the only Defendant, named in the SAC, alleged to reside within the Northern District of California. (Dkt. 86, RJN, Exhibit A; SAC ¶ 16). As such, upon the Court’s dismissal of all Plaintiffs’ claims against Defendant Next Level, *there are no Defendants left, who are residents of this judicial district*. This Court previously denied District Defendants’ Motion to dismiss Plaintiff’s First Amended Complaint based on the fact that the existence in the case of the now dismissed Defendants permitted the venue proper under 28 U.S.C. § 1391(b)(1) at the time of the Plaintiff’s filing (Dkt. 85). However, with all Northern District based Defendants dismissed, venue is no longer proper under 28 U.S.C. § 1391(b)(1).

As Plaintiffs specified in their SAC, all District and District Defendants sued in their official capacities, are located at 25631 Peter A. Hartman Way, Mission Viejo, CA 92691-3142 (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 13, 19, 20, 21), which is in Orange County, California, which falls under the jurisdiction of the United States District Court for the Central District of California. Furthermore, Plaintiffs allege in their SAC that all events which purportedly give rise to the alleged Plaintiffs' claims happened within the boundaries of the Saddleback Valley Unified School District. (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 10, 13) Based on the Plaintiffs' allegations in the SAC, all events allegedly leading to the Plaintiffs' claims occurred after Plaintiff's Phillip Bell Jr son, Phillip III, was enrolled in the Mission Viejo High School of the Saddleback Valley Unified School District, located in Mission Viejo, CA. (*Id.*)

Federal Rule of Civil Procedure ("Rule") 12(b)(3) provides that a party may move to dismiss a case for "improper venue." Furthermore, "[w]hen the propriety of venue is challenged by a Rule 12(b)(3) motion, Plaintiff bears the burden of establishing proper venue." (*Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979).) Therefore, with the instant Motion, Defendants contend that upon the dismissal of Defendant Next Level, which was the only Defendant residing within the instant judicial district, the United States District Court for the Northern District of California is no longer a proper venue for this matter. As established by the Supreme Court of the United States, "When venue is challenged, the court must determine whether the case falls within one of the three categories of courts in which a civil action may be brought, as set out in the statute governing venue generally; if it does, venue is proper, but if it does not, venue is improper, and the case must be dismissed or transferred. 28 U.S.C.A. §§ 1391, 1406(a)." (*Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S. 49, 56 (2013).)

Here, not only is the venue no longer proper, but all events described in Plaintiff's SAC took place within the boundaries of the United States District Court for the Central District of California. 28 U.S.C. § 1406(a) provides that "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." (28 U.S.C. § 1406(a).) Whether to dismiss an action for improper venue or alternatively to transfer venue to a proper court is within

the district court's discretion. (See *King v. Russell*, 963 F.2d 1301, 1304 (9th Cir. 1992)). As such, Defendants ask this Court to dismiss the SAC pursuant to Federal Rule of Civil Procedure 12(b)(3), or, alternatively, transfer it to the United States District Court for the Central District of California.

## II. FACTUAL BACKGROUND

Plaintiffs PHILLIP BELL JR., LORNA BARNES, and ANTHONY BARNES (hereinafter “Plaintiffs”) are the father and grandparents of PHILLIP III, a former student and a football player at Mission Viejo High School. (Dkt. 86, RJN, Exhibit A, SAC ¶¶10-12) Plaintiffs allege that the District ignored the Court Order regarding the return of PHILLIP III to Sacramento immediately after his first semester at MISSION. (Dkt. 86, RJN Exhibit A, SAC ¶62). Plaintiffs further allege that the Defendants re-enrolled PHILLIP III in school for his senior year with SANDOVAL and BRISCOE listed as his guardians, although they knew that it violated DISTRICT’s policy because FATHER was the only parent with custody rights. (Dkt. 86, RJN, Exhibit A, SAC ¶ 212).

As Plaintiffs specified in their SAC, all District and District Defendants sued in their official capacities, are located at 25631 Peter A. Hartman Way, Mission Viejo, CA 92691-3142 (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 13, 19, 20, 21), which is in Orange County, California, which falls under the jurisdiction of the United States District Court for the Central District of California. Furthermore, Plaintiffs allege in their SAC that all events which purportedly give rise to Plaintiffs’ alleged claims happened within the boundaries of the Saddleback Valley Unified School District. (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 10, 13) Based on the Plaintiffs’ allegations in the SAC, all events allegedly leading to the Plaintiffs’ claims occurred after Plaintiff’s Phillip Bell Jr son, Phillip III, was enrolled in the Mission Viejo High School of the Saddleback Valley Unified School District, located in Mission Viejo, CA. (*Id.*)

On July 15, 2025, Defendants Steve Briscoe, Next Level Sports & Academics (“Next Level”), and California Interscholastic Federation (“CIF”) filed their Motions to dismiss Plaintiffs’ Second Amended Complaint. (Dkt. 88, 89) On July 15, 2025, District and District Defendants filed Motions to dismiss Plaintiffs’ Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. 90) On October 8, 2025, this Court entered an Order resolving the above-mentioned Motions and dismissed Plaintiffs’ claims against CIF, Next Level, and Briscoe without

1 leave to amend. (Dkt. 110). The Court also dismissed Plaintiffs' Monell claim against the District  
 2 Defendants without leave to amend and limited Plaintiffs' claims for damages against the District  
 3 Defendants to seek damages against Defendants Wong, Osborne, or Johnson in their individual  
 4 capacities. (Dkt. 110). The Court further dismissed Plaintiffs' civil conspiracy claim without  
 5 prejudice. (Id.).

6 Defendant Next Level is the only Defendant named in the SAC who was alleged to reside  
 7 within the Northern District of California. (Dkt. 86, RJN Exhibit A, SAC ¶ 16). As such, upon  
 8 Court's dismissal of all Plaintiff's claims against Defendant Next Level, ***there are no Defendants***  
 9 ***left, who are residents of this judicial district.*** Therefore, Plaintiff's SAC must be dismissed  
 10 pursuant to Federal Rule of Civil Procedure 12(b)(3).

### 11 **III. LEGAL STANDARD**

12 Federal Rule of Civil Procedure ("Rule") 12(b)(3) provides that a party may move to dismiss  
 13 a case for "improper venue." Furthermore, "When the propriety of venue is challenged by a Rule  
 14 12(b)(3) motion, Plaintiff bears the burden of establishing proper venue." (*Piedmont Label Co. v.*  
 15 *Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979).) The general federal venue statute, 28  
 16 U.S.C. § 1391(b) states that a civil action may be brought in one of three judicial districts: first, "a  
 17 judicial district in which any defendant resides, if all defendants are residents of the State in which  
 18 the district is located," 28 U.S.C. § 1391(b)(1); second, "a judicial district in which a substantial  
 19 part of the events or omissions giving rise to the claim occurred, or a substantial part of property  
 20 that is the subject of the action is situated," 28 U.S.C. § 1391(b)(2); or third, "if there is not a proper  
 21 district under the first two provisions, any judicial district in which any defendant is subject to the  
 22 court's personal jurisdiction with respect to such action," 28 U.S.C. § 1391(b)(3). 28 U.S.C. §  
 23 1391(b). 28 U.S.C. § 1406(a) provides that "[t]he district court of a district in which is filed a case  
 24 laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice,  
 25 transfer such case to any district or division in which it could have been brought." (28 U.S.C. §  
 26 1406(a).) As established by the Supreme Court of the United States, "When venue is challenged,  
 27 the court must determine whether the case falls within one of the three categories of courts in which  
 28 a civil action may be brought, as set out in the statute governing venue generally; if it does, venue

1 is proper, but if it does not, venue is improper, and the case must be dismissed or transferred. 28  
 2 U.S.C.A. §§ 1391, 1406(a).” (*Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S.  
 3 49, 56 (2013).)

#### 4 IV. ARGUMENT

##### 5 A. VENUE IS IMPROPER UNDER 28 U.S.C. § 1391(B)(1).

6 There are no remaining Defendants located or residing within the venue of the Northern  
 7 District of California. On July 1, 2025, Plaintiffs filed their SAC against Defendants Briscoe, Next  
 8 Level, and CIF, Saddleback Valley Unified School District and individual District Defendants. (Dkt.  
 9 86, RJN, Exhibit A, SAC) District and District Defendants are located at 25631 Peter A. Hartman  
 10 Way, Mission Viejo, CA 92691-3142. (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 13, 19, 20, 21), which is  
 11 in Orange County, California, which falls under the jurisdiction of the United States District Court  
 12 for the Central District of California. Furthermore, per SAC, all events that gave rise to Plaintiffs’  
 13 alleged claims happened within the boundaries of the Saddleback Valley Unified School District.  
 14 (Dkt. 86, RJN, Exhibit A, SAC ¶¶ 10, 13) On July 15, 2025, Defendants Steve Briscoe, Next Level  
 15 Sports & Academics (“Next Level”), and California Interscholastic Federation (“CIF”) filed their  
 16 Motions to dismiss Plaintiffs’ Second Amended Complaint (Dkt. 88,89). On July 15, 2025, District  
 17 and District Defendants filed Motions to dismiss Plaintiffs’ Second Amended Complaint pursuant  
 18 to Federal Rule of Civil Procedure 12(b)(6). (Dkt. 90)

19 On October 8, 2025, this Court entered an Order resolving the above-mentioned Motions  
 20 and dismissed Plaintiffs’ claims against CIF, Next Level, and Briscoe without leave to amend. (Dkt.  
 21 110). Defendant Next Level was the only Defendant, named in the SAC, alleged to reside within  
 22 the Northern District of California. (Dkt. 86, RJN, Exhibit A, SAC ¶ 16). As such, upon the Court’s  
 23 dismissal of all Plaintiff’s claims against the Defendant Next Level, ***there are no Defendants left,***  
 24 ***who are residents of this judicial district.*** This Court previously denied District Defendants’ Motion  
 25 to dismiss Plaintiff’s First Amended Complaint based on the fact that the existence in the case of  
 26 the now dismissed Defendants permitted the venue proper under 28 U.S.C. § 1391(b)(1) at the time  
 27 of the Plaintiff’s filing (Dkt. 85). However, with all Northern District based Defendants dismissed,  
 28 venue is no longer proper under 28 U.S.C. § 1391(b)(1).

1 Federal Rule of Civil Procedure (“Rule”) 12(b)(3) provides that a party may move to dismiss  
 2 a case for “improper venue.” Furthermore, “When the propriety of venue is challenged by a Rule  
 3 12(b)(3) motion, Plaintiff bears the burden of establishing proper venue.” (*Piedmont Label Co. v.*  
 4 *Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979).) Therefore, with the instant Motion,  
 5 Defendants contend that upon the dismissal of the Defendant Next Level, the only Defendant  
 6 residing within the instant judicial district, the United States District Court for the Northern District  
 7 of California is no longer a proper venue for this matter. As established by the Supreme Court of  
 8 the United States, “When venue is challenged, the court must determine whether the case falls within  
 9 one of the three categories of courts in which a civil action may be brought, as set out in the statute  
 10 governing venue generally; if it does, venue is proper, but if it does not, venue is improper, and the  
 11 case must be dismissed or transferred. 28 U.S.C.A. §§ 1391, 1406(a).” (*Atl. Marine Const. Co. v.*  
 12 *U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S. 49, 56 (2013).)

13 Here, not only is the venue no longer proper, but all events described in Plaintiff’s SAC took  
 14 place within the boundaries of the United States District Court for the Central District of California.  
 15 28 U.S.C. § 1406(a) provides that “[t]he district court of a district in which is filed a case laying  
 16 venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such  
 17 case to any district or division in which it could have been brought.” (28 U.S.C. § 1406(a).) Whether  
 18 to dismiss an action for improper venue or alternatively to transfer venue to a proper court is within  
 19 the district court’s discretion. (See *King v. Russell*, 963 F.2d 1301, 1304 (9th Cir. 1992)). As such,  
 20 Defendants ask this Court to dismiss the SAC pursuant to Federal Rule of Civil Procedure 12(b)(3),  
 21 or, alternatively, transfer it to the United States District Court for the Central District of California.

## 22 V. CONCLUSION

23 Defendants respectfully request this Court dismiss Plaintiff’s Second Amended Complaint  
 24 pursuant to Federal Rule of Civil Procedure 12(b)(3) or, alternatively, transfer it to the United States  
 25 District Court for the Central District of California.

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1 Dated: October 22, 2025

DeMaria Law Firm, APC

2 By: /s/Anthony N. DeMaria

3 Anthony N. DeMaria

4 Attorneys for Defendants, SADDLEBACK  
5 VALLEY UNIFIED SCHOOL DISTRICT;  
6 EDWARD WONG, TRICIA OSBORNE, and  
7 CHAD JOHNSON  
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